

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 22nd Floor
San Francisco, California 94105**

FINAL STATEMENT OF REASONS

Date: February 4, 2003

RH02022283

**REGULATIONS ESTABLISHING GOVERNING PROCEDURE
FOR DEPARTMENT OF INSURANCE HEARINGS NOT
OTHERWISE SUBJECT TO SPECIFIC REGULATIONS**

UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST

There is no need to update any of the information contained in the Initial Statement of Reasons, or in the Informative Digest, for this matter.

UPDATE OF MATERIAL RELIED UPON

No material other than this Final Statement of Reasons has been added to the rulemaking file since the time the rulemaking record was opened, and no additional material has been relied upon.

MANDATE UPON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the proposed regulations will not impose a mandate upon local agencies or school districts.

ALTERNATIVES

The Commissioner has determined that there are no alternatives that would be more effective, or as effective and less burdensome to affected persons, than the proposed regulations. In support of this determination is the fact that no alternatives were suggested during the public comment period, despite the express invitation that was extended in the Notice of Proposed Action to comment on alternatives to the regulations.

COMMENTS AND PUBLIC HEARING

Only one written comment was received on the proposed regulations. Although two observers were in attendance at the public hearing on **January 21, 2003**, no one testified regarding the proposed regulations.

The sole written comment was from the Viatical & Life Settlement Association of America (VLSAA). Mr. Doug Head, Executive Director of VLSAA, noted that Insurance Code §10113.2 provides that any hearing pursuant to the section must be conducted in accordance with Chapter 5 of the Administrative Procedure Act, and that it is the intent of the legislature that hearings for all licensees be conducted in a consistent manner. He further feels that unless there is a special regulation essentially reiterating the statute mandating use of Chapter 5 procedures for hearings on viatical licensees, participants will be differentiated from other licensees and the procedure will be unpredictable.

Such a special regulation is not necessary. All the statutes Mr. Head references explicitly provide that Chapter 5 procedures shall be used for hearings involving licensees. The statutes control the hearing procedure and the proposed regulations explicitly would not be applied to any hearing that, by statute, must be in accordance with Chapter 5, including these viatical hearings.

NO REVISIONS TO TEXT OF THE PROPOSED REGULATIONS HAVE BEEN MADE.